

**53A-2-101. School districts.**

School districts may be created, merged, dissolved, or their boundaries changed only as provided in this chapter.

Enacted by Chapter 2, 1988 General Session

**53A-2-101.5. Filing of notice and plat relating to school district boundary changes including creation, consolidation, division, or dissolution -- Recording requirements -- Effective date.**

(1) The county legislative body shall:

(a) within 30 days after the creation, consolidation, division, or dissolution of a school district, file with the lieutenant governor:

(i) a copy of a notice of an impending boundary action, as defined in Section 67-1a-6.5, that meets the requirements of Subsection 67-1a-6.5(3); and

(ii) except in the case of a dissolution, a copy of an approved final local entity plat, as defined in Section 67-1a-6.5; and

(b) upon the lieutenant governor's issuance of a certificate of boundary action under Section 67-1a-6.5:

(i) if the school district is or, in the case of dissolution, was located within the boundary of a single county, submit to the recorder of that county:

(A) the original:

(I) notice of an impending boundary action;

(II) certificate of boundary action; and

(III) except in the case of dissolution, approved final local entity plat; and

(B) if applicable, a certified copy of the resolution approving the boundary action;

or

(ii) if the school district is or, in the case of a dissolution, was located within the boundaries of more than a single county:

(A) submit to the recorder of one of those counties:

(I) the original of the documents listed in Subsections (1)(b)(i)(A)(I), (II), and (III);

and

(II) if applicable, a certified copy of the resolution approving the boundary action;

and

(B) submit to the recorder of each other county:

(I) a certified copy of the documents listed in Subsections (1)(b)(i)(A)(I), (II), and (III); and

(II) if applicable, a certified copy of the resolution approving the boundary action.

(2) (a) Upon the lieutenant governor's issuance of the certificate under Section 67-1a-6.5, the creation, consolidation, division, dissolution, or other change affecting the boundary of a new or existing school district that was the subject of the action has legal effect.

(b) (i) As used in this Subsection (2)(b), "affected area" means:

(A) in the case of the creation of a school district, the area within the school district's boundary;

(B) in the case of the consolidation of multiple school districts, the area within the boundary of each school district that is consolidated into another school district;

(C) in the case of the division of a school district, the area within the boundary of the school district created by the division; and

(D) in the case of an addition to an existing school district, the area added to the school district.

(ii) The effective date of a boundary action, as defined in Section 17-23-20, for purposes of assessing property within the school district is governed by Section 59-2-305.5.

(iii) Until the documents listed in Subsection (1)(b) are recorded in the office of the recorder of each county in which the property is located, a school district may not levy or collect a property tax on property within the affected area.

Amended by Chapter 350, 2009 General Session

**53A-2-102. Consolidation of school districts -- Resolution by school board members -- Petition by electors -- Election.**

(1) Two or more school districts may unite and form a single school district in one of the following ways:

(a) a majority of the members of each of the boards of education of the affected districts shall approve and present to the county legislative body of the affected counties a resolution to consolidate the districts. Once this is done, consolidation shall be established under this chapter; or

(b) a majority of the members of the board of education of each affected district, or 15% of the qualified electors in each of the affected districts, shall sign and present a petition to the county legislative body of each affected county. The question shall be voted upon at an election called for that purpose, which shall be the next general or municipal election. Consolidation shall occur if a majority of those voting on the question in each district favor consolidation.

(2) The elections required under Subsection (1)(b) shall be conducted and the returns canvassed as provided by election laws.

Amended by Chapter 227, 1993 General Session

**53A-2-103. Transfer of property to new school district -- Rights and obligations of new school board -- Outstanding indebtedness -- Special tax.**

(1) On July 1 following the approval of the creation of a new school district under Section 53A-2-102, the local school boards of the former districts shall convey and deliver all school property to the local school board of the new district. Title vests in the new board. All rights, claims, and causes of action to or for the property, for the use or the income from the property, for conversion, disposition, or withholding of the property, or for any damage or injury to the property vest at once in the new board.

(2) The new board may bring and maintain actions to recover, protect, and preserve the property and rights of the district schools and to enforce contracts.

(3) The new board shall assume and be liable for all outstanding debts and obligations of each of the former school districts.

(4) All of the bonded indebtedness, outstanding debts, and obligations of a former district, which cannot be reasonably paid from the assets of the former district,

shall be paid by a special tax levied by the new board as needed. The tax shall be levied upon the property within the former district which was liable for the indebtedness at the time of consolidation. If bonds are approved in the new district under Section 53A-18-102, the special tax shall be discontinued and the bonded indebtedness paid as any other bonded indebtedness of the new district.

(5) Bonded indebtedness of a former district which has been refunded shall be paid in the same manner as that which the new district assumes under Section 53A-18-101.

(6) State funds received by the new district under Section 53A-21-202 may be applied toward the payment of outstanding bonded indebtedness of a former district in the same proportion as the bonded indebtedness of the territory within the former district bears to the total bonded indebtedness of the districts combined.

Amended by Chapter 236, 2008 General Session

**53A-2-104. Transfer of a portion of a school district -- Board resolution -- Board petition -- Elector petition -- Transfer election.**

(1) Part of a school district may be transferred to another district in one of the following ways:

(a) presentation to the county legislative body of each of the affected counties of a resolution requesting the transfer, approved by at least four-fifths of the members of the local board of education of each affected school district;

(b) presentation to the county legislative body of each affected county of a petition requesting that the electors vote on the transfer, signed by a majority of the members of the local school board of each affected school district; or

(c) presentation to the county legislative body of each affected county of a petition requesting that the electors vote on the transfer, signed by 15% of the qualified electors in each of the affected school districts within that county.

(2) (a) If an annexation of property by a city would result in its residents being served by more than one school district, then the presidents of the affected local school boards shall meet within 60 days prior to the effective date of the annexation to determine whether it would be advisable to adjust school district boundaries to permit all residents of the expanded city to be served by a single school district.

(b) Upon conclusion of the meeting, the local school board presidents shall prepare a recommendation for presentation to their respective boards as soon as reasonably possible.

(c) The boards may then initiate realignment proceedings under Subsection (1)(a) or (b).

(d) If a local board rejects realignment under Subsection (1)(a) or (b), the other board may initiate the following procedures by majority vote within 60 days of the vote rejecting realignment:

(i) (A) within 30 days after a vote to initiate these procedures, each local board shall appoint one member to a boundary review committee; or

(B) if the local board becomes deadlocked in selecting the appointee under Subsection (2)(d)(i)(A), the board's chair shall make the appointment or serve as the appointee to the review committee.

(ii) The two local board-appointed members of the committee shall meet and appoint a third member of the committee.

(iii) If the two local board-appointed members are unable to agree on the appointment of a third member within 30 days after both are appointed, the State Superintendent of Public Instruction shall appoint the third member.

(iv) The committee shall meet as necessary to prepare recommendations concerning resolution of the realignment issue, and shall submit the recommendations to the affected local boards within six months after the appointment of the third member of the committee.

(v) If a majority of the members of each local board accepts the recommendation of the committee, or accepts the recommendation after amendment by the boards, then the accepted recommendation shall be implemented.

(vi) If the committee fails to submit its recommendation within the time allotted, or if one local board rejects the recommendation, the affected boards may agree to extend the time for the committee to prepare an acceptable recommendation or either board may request the State Board of Education to resolve the question.

(vii) If the committee has submitted a recommendation which the state board finds to be reasonably supported by the evidence, the state board shall adopt the committee's recommendation.

(viii) The decision of the state board is final.

(3) (a) The electors of each affected district shall vote on the transfer requested under Subsection (1)(b) or (c) at an election called for that purpose, which may be the next general election.

(b) The election shall be conducted and the returns canvassed as provided by election law.

(c) A transfer is effected only if a majority of votes cast by the electors in both the proposed transferor district and in the proposed transferee district are in favor of the transfer.

Amended by Chapter 215, 2007 General Session

**53A-2-105. Transfer of school property -- Indebtedness on transferred property.**

(1) If a transfer of a portion of one school district to another school district is approved under Section 53A-2-104, the state superintendent and the superintendents and presidents of the boards of education of each of the affected school districts shall determine the basis for a transfer of all school property reasonably and fairly allocable to that portion being transferred.

(2) (a) Title to property transferred vests in the transferee board of education.

(b) The transfer of a school building that is in operation at the time of determination shall be made at the close of a fiscal year.

(c) The transfer of all other school property shall be made five days after approval of the transfer of territory under Section 53A-2-104.

(3) (a) The individuals referred to in Subsection (1) shall determine the portion of bonded indebtedness and other indebtedness of the transferor board for which the transferred property remains subject to the levy of taxes to pay a proportionate share of

the outstanding indebtedness of the transferor board.

(b) This is done by:

(i) determining the amount of the outstanding bonded indebtedness and other indebtedness of the transferor board of education;

(ii) determining the total taxable value of the property of the transferor district and the taxable value of the property to be transferred; and

(iii) calculating the portion of the indebtedness of the transferor board for which the transferred portion retains liability.

(4) (a) The agreement reflecting these determinations takes effect upon being filed with the State Board of Education.

(b) The transferred property remains subject to the levy of taxes to pay a proportionate share of the outstanding indebtedness of the transferor school board.

(c) The transferee school board may assume the obligation to pay the proportionate share of the transferor school board's indebtedness that has been determined under Subsection (3) to be the obligation of the transferred portion by the approval of a resolution by a majority of the qualified electors of the transferee school district at an election called and held for that purpose under Title 11, Chapter 14, Local Government Bonding Act.

(5) If the transferee school district assumes the obligation to pay this proportionate share of the transferor school board's indebtedness, the transferee school board shall levy a tax in the whole of the transferee district, including the transferred portion, sufficient to pay the assumed indebtedness, and shall turn over the proceeds of the tax to the business administrator of the transferor board.

(6) If the transferee school board does not assume this obligation, the transferee school board shall levy a tax on the transferred territory sufficient to pay the proportionate share of the indebtedness determined under this section, and shall turn over the proceeds of the tax to the business administrator of the transferor board.

(7) For the purposes of school districts affected by repealed laws governing the annexation of an unincorporated area of a school district by a city which included what was formerly known as a city school district, transitions of unincorporated areas and property from the transferor district to the transferee district in progress on the effective date of this act shall revert to the boundaries and ownership prior to the initiation of annexation and may then proceed under this section and Section 53A-2-104.

Amended by Chapter 215, 2007 General Session

**53A-2-108. School districts independent of municipal and county governments -- School district name -- Control of property.**

(1) (a) Each school district shall be controlled by its board of education and shall be independent of municipal and county governments.

(b) The name of each school district created after May 1, 2000 shall comply with Subsection 17-50-103(2)(a).

(2) The local school board shall have direction and control of all school property in the district.

Amended by Chapter 185, 2000 General Session

**53A-2-111. Legislative findings.**

The Legislature finds that restructuring and consolidation of school districts may provide long-term educational and financial benefits, but that short-term costs and other problems may make it difficult for school officials to move forward with such plans. The Legislature therefore adopts Sections 53A-2-111 through 53A-2-116 to assist the public school system to create more efficient and effective administrative units.

Enacted by Chapter 49, 1988 General Session

**53A-2-112. Definitions.**

As used in Sections 53A-2-113 through 53A-2-116:

(1) "Consolidation" means the merger of two or more school districts into a single administrative unit.

(2) "Restructuring" means the transfer of territory from one school district to another school district.

Enacted by Chapter 49, 1988 General Session

**53A-2-113. School district consolidation -- State funding of consolidated districts.**

When districts consolidate, payments made by the state under Title 53A, Chapter 17a, Minimum School Program Act, shall continue for a period of five years from the date of consolidation on the same basis as if no consolidation had occurred. At the end of the five-year period, the consolidated district shall receive funding as a single district.

Amended by Chapter 4, 1993 General Session

**53A-2-114. Additional levies -- School board options to abolish or continue after consolidation.**

(1) If a school district that has approved an additional levy under Section 53A-17a-133 is consolidated with a district which does not have such a levy, the board of education of the consolidated district may choose to abolish the levy, or apply it in whole or in part to the entire consolidated district.

(2) If the board chooses to apply any part of the levy to the entire district, the levy may continue in force for no more than three years, unless approved by the electors of the consolidated district in the manner set forth in Section 53A-17a-133.

Amended by Chapter 371, 2011 General Session

**53A-2-115. Additional levies in transferred territory -- Transferee board option to abolish or continue.**

If two or more districts undergo restructuring that results in a district receiving territory that increases the population of the district by at least 25%, and if the transferred territory was, at the time of transfer, subject to an additional levy under Section 53A-17a-133, the board of education of the transferee district may abolish the

levy or apply the levy in whole or in part to the entire restructured district. Any such levy made applicable to the entire district may continue in force for no more than five years, unless approved by the electors of the restructured district in the manner set forth in Section 53A-17a-133.

Amended by Chapter 371, 2011 General Session

**53A-2-116. Rights of transferred employees -- Salary during first year -- Leave and tenure benefits.**

(1) If a school employee is transferred from one district to another because of district consolidation or restructuring, the employee's salary may not be less, during the first year after the transfer, than it would have been had the transfer not taken place.

(2) The district to which an employee is transferred under Subsection (1) shall credit the employee with all accumulated leave and tenure recognized by the district from which the employee was transferred.

(3) If the district to which an employee is transferred does not have a leave benefit which reasonably corresponds to one the employee seeks to transfer, that district shall compensate the employee for the benefit on the same basis as would have been done had the employee retired.

Enacted by Chapter 49, 1988 General Session

**53A-2-117. Definitions.**

As used in Sections 53A-2-117 through 53A-2-122, except Section 53A-2-118.4:

(1) "Allocation date" means:

(a) June 30 of the second calendar year after the local school board general election date described in Subsection 53A-2-118.1(3)(a)(i); or

(b) another date that the transition teams under Section 53A-2-118.1 mutually agree to.

(2) "Canvass date" means the date of the canvass of an election under Subsection 53A-2-118(5) at which voters approve the creation of a new school district under Section 53A-2-118.1.

(3) "Creation election date" means the date of the election under Subsection 53A-2-118(5) at which voters approve the creation of a new school district under Section 53A-2-118.1.

(4) "Divided school district, "existing district," or "existing school district" means a school district from which a new district is created.

(5) "New district" or "new school district" means a school district created under Section 53A-2-118 or 53A-2-118.1.

(6) "Remaining district" or "remaining school district" means an existing district after the creation of a new district.

Amended by Chapter 300, 2011 General Session

Amended by Chapter 369, 2011 General Session

**53A-2-118. Creation of new school district -- Initiation of process --**

**Procedures to be followed.**

(1) A new school district may be created from one or more existing school districts, as provided in this section.

(2) (a) The process to create a new school district may be initiated:

(i) through a citizens' initiative petition;

(ii) at the request of the board of the existing district or districts to be affected by the creation of the new district; or

(iii) at the request of a city within the boundaries of the school district or at the request of interlocal agreement participants, pursuant to Section 53A-2-118.1.

(b) (i) Each petition submitted under Subsection (2)(a)(i) shall be signed by qualified electors residing within the geographical boundaries of the proposed new school district equal in number to at least 15% of the number of electors in the area who voted for the office of governor at the last regular general election.

(ii) Each request or petition submitted under Subsection (2)(a) shall:

(A) be filed with the clerk of each county in which any part of the proposed new school district is located;

(B) indicate the typed or printed name and current residence address of each governing board member making a request, or registered voter signing a petition, as the case may be;

(C) describe the proposed new school district boundaries; and

(D) designate up to five signers of the petition or request as sponsors, one of whom shall be designated as the contact sponsor, with the mailing address and telephone number of each.

(c) A signer of a petition under Subsection (2)(a)(i) may withdraw or, once withdrawn, reinstate the signer's signature at any time before the filing of the petition by filing a written withdrawal or reinstatement with the county clerk.

(d) The process under Subsection (2)(a)(i) may only be initiated once during any four-year period.

(e) A new district may not be formed pursuant to Subsection (2)(a) if the student population of the proposed new district is less than 3,000 or the existing district's student population would be less than 3,000 because of the creation of the new school district.

(f) Within 45 days after the filing of a petition under Subsection (2)(a)(i) or five business days after the filing of a request under Subsection (2)(a)(ii) or (iii), the clerk of each county with which a request or petition is filed shall:

(i) determine whether the request or petition complies with Subsections (2)(a), (b), (d), and (e), as applicable; and

(ii) (A) if the county clerk determines that the request or petition complies with the applicable requirements:

(I) certify the request or petition and deliver the certified request or petition to the county legislative body; and

(II) mail or deliver written notification of the certification to the contact sponsor; or

(B) if the county clerk determines that the request or petition fails to comply with any of the applicable requirements, reject the request or petition and notify the contact sponsor in writing of the rejection and reasons for the rejection.



(g) If the county clerk fails to certify or reject a request or petition within the time specified in Subsection (2)(f), the request or petition shall be considered to be certified.

(h) (i) If the county clerk rejects a request or petition, the request or petition may be amended to correct the deficiencies for which it was rejected and then refiled.

(ii) Subsection (2)(d) does not apply to a request or petition that is amended and refiled after having been rejected by a county clerk.

(i) If a county legislative body receives a request from a school board under Subsection (2)(a)(ii) or a petition under Subsection (2)(a)(i) which is certified by the county clerk on or before December 1:

(i) the county legislative body shall appoint an ad hoc advisory committee, as provided by Subsection (3), on or before January 1;

(ii) the ad hoc advisory committee shall submit its report and recommendations to the county legislative body, as provided by Subsection (3), on or before July 1; and

(iii) if the legislative body of each county with which a request or petition is filed approves a proposal to create a new district, the proposal shall be submitted to the respective county clerk to be voted on by the electors of each existing district at the regular general or municipal general election held in November.

(3) (a) The legislative body of each county with which a request or petition is filed shall appoint an ad hoc advisory committee to review and make recommendations on a request for the creation of a new school district submitted under Subsection (2)(a)(i) or (ii).

(b) The advisory committee shall:

(i) seek input from:

(A) those requesting the creation of the new school district;

(B) the school board and school personnel of each existing school district;

(C) those citizens residing within the geographical boundaries of each existing school district;

(D) the State Board of Education; and

(E) other interested parties;

(ii) review data and gather information on at least:

(A) the financial viability of the proposed new school district;

(B) the proposal's financial impact on each existing school district;

(C) the exact placement of school district boundaries; and

(D) the positive and negative effects of creating a new school district and whether the positive effects outweigh the negative if a new school district were to be created; and

(iii) make a report to the county legislative body in a public meeting on the committee's activities, together with a recommendation on whether to create a new school district.

(4) For a request or petition submitted under Subsection (2)(a)(i) or (2)(a)(ii):

(a) The county legislative body shall provide for a 45-day public comment period on the report and recommendation to begin on the day the report is given under Subsection (3)(b)(iii).

(b) Within 14 days after the end of the comment period, the legislative body of each county with which a request or petition is filed shall vote on the creation of the proposed new school district.

(c) The proposal is approved if a majority of the members of the legislative body of each county with which a request or petition is filed votes in favor of the proposal.

(d) If the proposal is approved, the legislative body of each county with which a request or petition is filed shall submit the proposal to the county clerk to be voted on:

- (i) by the legal voters of each existing school district;
- (ii) in accordance with the procedures and requirements applicable to a regular general election under Title 20A, Election Code; and
- (iii) at the next regular general election or municipal general election, whichever is first.

(e) Creation of the new school district shall occur if a majority of the electors within both the proposed school district and each remaining school district voting on the proposal vote in favor of the creation of the new district.

(f) Each county legislative body shall comply with the requirements of Section 53A-2-101.5.

(g) If a proposal submitted under Subsection (2)(a)(i) or (ii) to create a new district is approved by the electors, the existing district's documented costs to study and implement the proposal shall be reimbursed by the new district.

(5) (a) If a proposal submitted under Subsection (2)(a)(iii) is certified under Subsection (2)(f) or (g), the legislative body of each county in which part of the proposed new school district is located shall submit the proposal to the respective clerk of each county to be voted on:

- (i) by the legal voters residing within the proposed new school district boundaries;
- (ii) in accordance with the procedures and requirements applicable to a regular general election under Title 20A, Election Code; and
- (iii) at the next regular general election or municipal general election, whichever is first.

(b) (i) If a majority of the legal voters within the proposed new school district boundaries voting on the proposal at an election under Subsection (5)(a) vote in favor of the creation of the new district:

(A) each county legislative body shall comply with the requirements of Section 53A-2-101.5; and

(B) upon the lieutenant governor's issuance of the certificate under Section 67-1a-6.5, the new district is created.

(ii) Notwithstanding the creation of a new district as provided in Subsection (5)(b)(i)(B):

(A) a new school district may not begin to provide educational services to the area within the new district until July 1 of the second calendar year following the school board general election date described in Subsection 53A-2-118.1(3)(a)(i);

(B) a remaining district may not begin to provide educational services to the area within the remaining district until the time specified in Subsection (5)(b)(ii)(A); and

(C) each existing district shall continue, until the time specified in Subsection (5)(b)(ii)(A), to provide educational services within the entire area covered by the existing district.

**53A-2-118.1. Proposal initiated by a city or interlocal agreement participants to create a school district -- Boundaries -- Election of local school board members -- Allocation of assets and liabilities -- Startup costs -- Transfer of title.**

(1) (a) After conducting a feasibility study, a city with a population of at least 50,000, as determined by the lieutenant governor using the process described in Subsection 67-1a-2(3), may by majority vote of the legislative body, submit for voter approval a measure to create a new school district with boundaries contiguous with that city's boundaries, in accordance with Section 53A-2-118.

(b) (i) The determination of all matters relating to the scope, adequacy, and other aspects of a feasibility study under Subsection (1)(a) is within the exclusive discretion of the city's legislative body.

(ii) An inadequacy of a feasibility study under Subsection (1)(a) may not be the basis of a legal action or other challenge to:

- (A) an election for voter approval of the creation of a new school district; or
- (B) the creation of the new school district.

(2) (a) By majority vote of the legislative body, a city of any class, a town, or a county, may, together with one or more other cities, towns, or the county enter into an interlocal agreement, in accordance with Title 11, Chapter 13, Interlocal Cooperation Act, for the purpose of submitting for voter approval a measure to create a new school district.

(b) (i) In accordance with Section 53A-2-118, interlocal agreement participants under Subsection (2)(a) may submit a proposal for voter approval if:

(A) the interlocal agreement participants conduct a feasibility study prior to submitting the proposal to the county;

(B) the combined population within the proposed new school district boundaries is at least 50,000;

(C) the new school district boundaries:

(I) are contiguous;

(II) do not completely surround or otherwise completely geographically isolate a portion of an existing school district that is not part of the proposed new school district from the remaining part of that existing school district, except as provided in Subsection (2)(d)(iii);

(III) include the entire boundaries of each participant city or town, except as provided in Subsection (2)(d)(ii); and

(IV) subject to Subsection (2)(b)(ii), do not cross county lines; and

(D) the combined population within the proposed new school district of interlocal agreement participants that have entered into an interlocal agreement proposing to create a new school district is at least 80% of the total population of the proposed new school district.

(ii) The determination of all matters relating to the scope, adequacy, and other aspects of a feasibility study under Subsection (2)(b)(i)(A), including whether to conduct a new feasibility study or revise a previous feasibility study due to a change in the proposed new school district boundaries, is within the exclusive discretion of the legislative bodies of the interlocal agreement participants that enter into an interlocal agreement to submit for voter approval a measure to create a new school district.

(iii) An inadequacy of a feasibility study under Subsection (2)(b)(i)(A) may not be the basis of a legal action or other challenge to:

(A) an election for voter approval of the creation of a new school district; or

(B) the creation of the new school district.

(iv) For purposes of determining whether the boundaries of a proposed new school district cross county lines under Subsection (2)(b)(i)(C)(IV):

(A) a municipality located in more than one county and entirely within the boundaries of a single school district is considered to be entirely within the same county as other participants in an interlocal agreement under Subsection (2)(a) if more of the municipality's land area and population is located in that same county than outside the county; and

(B) a municipality located in more than one county that participates in an interlocal agreement under Subsection (2)(a) with respect to some but not all of the area within the municipality's boundaries on the basis of the exception stated in Subsection (2)(d)(ii)(B) may not be considered to cross county lines.

(c) (i) A county may only participate in an interlocal agreement under this Subsection (2) for the unincorporated areas of the county.

(ii) Boundaries of a new school district created under this section may include:

(A) a portion of one or more existing school districts; and

(B) a portion of the unincorporated area of a county, including a portion of a township.

(d) (i) As used in this Subsection (2)(d):

(A) "Isolated area" means an area that:

(I) is entirely within the boundaries of a municipality that, except for that area, is entirely within a school district different than the school district in which the area is located; and

(II) would, because of the creation of a new school district from the existing district in which the area is located, become completely geographically isolated.

(B) "Municipality's school district" means the school district that includes all of the municipality in which the isolated area is located except the isolated area.

(ii) Notwithstanding Subsection (2)(b)(i)(C)(III), a municipality may be a participant in an interlocal agreement under Subsection (2)(a) with respect to some but not all of the area within the municipality's boundaries if:

(A) the portion of the municipality proposed to be included in the new school district would, if not included, become an isolated area upon the creation of the new school district; or

(B) (I) the portion of the municipality proposed to be included in the new school district is within the boundaries of the same school district that includes the other interlocal agreement participants; and

(II) the portion of the municipality proposed to be excluded from the new school district is within the boundaries of a school district other than the school district that includes the other interlocal agreement participants.

(iii) (A) Notwithstanding Subsection (2)(b)(i)(C)(II), a proposal to create a new school district may be submitted for voter approval pursuant to an interlocal agreement under Subsection (2)(a), even though the new school district boundaries would create an isolated area, if:

(I) the potential isolated area is contiguous to one or more of the interlocal agreement participants;

(II) the interlocal participants submit a written request to the municipality in which the potential isolated area is located, requesting the municipality to enter into an interlocal agreement under Subsection (2)(a) that proposes to submit for voter approval a measure to create a new school district that includes the potential isolated area; and

(III) 90 days after a request under Subsection (2)(d)(iii)(A)(II) is submitted, the municipality has not entered into an interlocal agreement as requested in the request.

(B) Each municipality receiving a request under Subsection (2)(d)(iii)(A)(II) shall hold one or more public hearings to allow input from the public and affected school districts regarding whether or not the municipality should enter into an interlocal agreement with respect to the potential isolated area.

(C) (I) This Subsection (2)(d)(iii)(C) applies if:

(Aa) a new school district is created under this section after a measure is submitted to voters based on the authority of Subsection (2)(d)(iii)(A); and

(Bb) the creation of the new school district results in an isolated area.

(II) The isolated area shall, on July 1 of the second calendar year following the local school board general election date described in Subsection (3)(a)(i), become part of the municipality's school district.

(III) Unless the isolated area is the only remaining part of the existing district, the process described in Subsection (4) shall be modified to:

(Aa) include a third transition team, appointed by the local school board of the municipality's school district, to represent that school district; and

(Bb) require allocation of the existing district's assets and liabilities among the new district, the remaining district, and the municipality's school district.

(IV) The existing district shall continue to provide educational services to the isolated area until July 1 of the second calendar year following the local school board general election date described in Subsection (3)(a)(i).

(3) (a) If a proposal under this section is approved by voters:

(i) an election shall be held at the next regular general election to elect:

(A) members to the local school board of the existing school district whose terms are expiring;

(B) all members to the local school board of the new school district; and

(C) all members to the local school board of the remaining district;

(ii) the assets and liabilities of the existing school district shall be divided between the remaining school district and the new school district as provided in Subsection (5) and Section 53A-2-121;

(iii) transferred employees shall be treated in accordance with Sections 53A-2-116 and 53A-2-122;

(iv) (A) an individual residing within the boundaries of a new school district at the time the new school district is created may, for six school years after the creation of the new school district, elect to enroll in a secondary school located outside the boundaries of the new school district if:

(I) the individual resides within the boundaries of that secondary school as of the day before the new school district is created; and

(II) the individual would have been eligible to enroll in that secondary school had

the new school district not been created; and

(B) the school district in which the secondary school is located shall provide educational services, including, if provided before the creation of the new school district, busing, to each individual making an election under Subsection (3)(a)(iv)(A) for each school year for which the individual makes the election; and

(v) within one year after the new district begins providing educational services, the superintendent of each remaining district affected and the superintendent of the new district shall meet, together with the Superintendent of Public Instruction, to determine if further boundary changes should be proposed in accordance with Section 53A-2-104.

(b) (i) The terms of the initial members of the local school board of the new district and remaining district shall be staggered and adjusted by the county legislative body so that approximately half of the local school board is elected every two years.

(ii) The term of a member of the existing local school board, including a member elected under Subsection (3)(a)(i)(A), terminates on July 1 of the second year after the local school board general election date described in Subsection (3)(a)(i), regardless of when the term would otherwise have terminated.

(iii) Notwithstanding the existence of a local school board for the new district and a local school board for the remaining district under Subsection (3)(a)(i), the local school board of the existing district shall continue, until the time specified in Subsection 53A-2-118(5)(b)(ii)(A), to function and exercise authority as a local school board to the extent necessary to continue to provide educational services to the entire existing district.

(iv) A person may simultaneously serve as or be elected to be a member of the local school board of an existing district and a member of the local school board of:

(A) a new district; or

(B) a remaining district.

(4) (a) Within 45 days after the canvass date for the election at which voters approve the creation of a new district:

(i) a transition team to represent the remaining district shall be appointed by the members of the existing local school board who reside within the area of the remaining district, in consultation with:

(A) the legislative bodies of all municipalities in the area of the remaining district; and

(B) the legislative body of the county in which the remaining district is located, if the remaining district includes one or more unincorporated areas of the county; and

(ii) another transition team to represent the new district shall be appointed by:

(A) for a new district located entirely within the boundaries of a single city, the legislative body of that city; or

(B) for each other new district, the legislative bodies of all interlocal agreement participants.

(b) The local school board of the existing school district shall, within 60 days after the canvass date for the election at which voters approve the creation of a new district:

(i) prepare an inventory of the existing district's:

(A) assets, both tangible and intangible, real and personal; and

- (B) liabilities; and
- (ii) deliver a copy of the inventory to each of the transition teams.
- (c) The transition teams appointed under Subsection (4)(a) shall:
  - (i) determine the allocation of the existing district's assets and, except for indebtedness under Section 53A-2-121, liabilities between the remaining district and the new district in accordance with Subsection (5);
  - (ii) prepare a written report detailing how the existing district's assets and, except for indebtedness under Section 53A-2-121, liabilities are to be allocated; and
  - (iii) deliver a copy of the written report to:
    - (A) the local school board of the existing district;
    - (B) the local school board of the remaining district; and
    - (C) the local school board of the new district.
- (d) The transition teams shall determine the allocation under Subsection (4)(c)(i) and deliver the report required under Subsection (4)(c)(ii) before August 1 of the year following the election at which voters approve the creation of a new district, unless that deadline is extended by the mutual agreement of:
  - (i) the local school board of the existing district; and
  - (ii) (A) the legislative body of the city in which the new district is located, for a new district located entirely within a single city; or
  - (B) the legislative bodies of all interlocal agreement participants, for each other new district.
- (e) (i) All costs and expenses of the transition team that represents a remaining district shall be borne by the remaining district.
- (ii) All costs and expenses of the transition team that represents a new district shall initially be borne by:
  - (A) the city whose legislative body appoints the transition team, if the transition team is appointed by the legislative body of a single city; or
  - (B) the interlocal agreement participants, if the transition team is appointed by the legislative bodies of interlocal agreement participants.
- (iii) The new district may, to a maximum of \$500,000, reimburse the city or interlocal agreement participants for:
  - (A) transition team costs and expenses; and
  - (B) startup costs and expenses incurred by the city or interlocal agreement participants on behalf of the new district.
- (5) (a) As used in this Subsection (5):
  - (i) "Associated property" means furniture, equipment, or supplies located in or specifically associated with a physical asset.
  - (ii) (A) "Discretionary asset or liability" means, except as provided in Subsection (5)(a)(ii)(B), an asset or liability that is not tied to a specific project, school, student, or employee by law or school district accounting practice.
  - (B) "Discretionary asset or liability" does not include a physical asset, associated property, a vehicle, or bonded indebtedness.
  - (iii) (A) "Nondiscretionary asset or liability" means, except as provided in Subsection (5)(a)(iii)(B), an asset or liability that is tied to a specific project, school, student, or employee by law or school district accounting practice.
  - (B) "Nondiscretionary asset or liability" does not include a physical asset,

associated property, a vehicle, or bonded indebtedness.

(iv) "Physical asset" means a building, land, or water right together with revenue derived from the lease or use of the building, land, or water right.

(b) Except as provided in Subsection (5)(c), the transition teams appointed under Subsection (4)(a) shall allocate all assets and liabilities the existing district owns on the allocation date, both tangible and intangible, real and personal, to the new district and remaining district as follows:

(i) a physical asset and associated property shall be allocated to the school district in which the physical asset is located;

(ii) a discretionary asset or liability shall be allocated between the new district and remaining district in proportion to the student populations of the school districts;

(iii) a nondiscretionary asset shall be allocated to the school district where the project, school, student, or employee to which the nondiscretionary asset is tied will be located;

(iv) vehicles used for pupil transportation shall be allocated:

(A) according to the transportation needs of schools, as measured by the number and assortment of vehicles used to serve transportation routes serving schools within the new district and remaining district; and

(B) in a manner that gives each school district a fleet of vehicles for pupil transportation that is equivalent in terms of age, condition, and variety of carrying capacities; and

(v) other vehicles shall be allocated:

(A) in proportion to the student populations of the school districts; and

(B) in a manner that gives each district a fleet of vehicles that is similar in terms of age, condition, and carrying capacities.

(c) By mutual agreement, the transition teams may allocate an asset or liability in a manner different than the allocation method specified in Subsection (5)(b).

(6) (a) As used in this Subsection (6):

(i) "New district startup costs" means:

(A) costs and expenses incurred by a new district in order to prepare to begin providing educational services on July 1 of the second calendar year following the local school board general election date described in Subsection (3)(a)(i); and

(B) the costs and expenses of the transition team that represents the new district.

(ii) "Remaining district startup costs" means:

(A) costs and expenses incurred by a remaining district in order to:

(I) make necessary adjustments to deal with the impacts resulting from the creation of the new district; and

(II) prepare to provide educational services within the remaining district once the new district begins providing educational services within the new district; and

(B) the costs and expenses of the transition team that represents the remaining district.

(b) (i) By January 1 of the year following the local school board general election date described in Subsection (3)(a)(i), the existing district shall make half of the undistributed reserve from its General Fund, to a maximum of \$9,000,000, available for the use of the remaining district and the new district, as provided in this Subsection (6).



(ii) The existing district may make additional funds available for the use of the remaining district and the new district beyond the amount specified in Subsection (6)(b)(i) through an interlocal agreement.

(c) The existing district shall make the money under Subsection (6)(b) available to the remaining district and the new district proportionately based on student population.

(d) The money made available under Subsection (6)(b) may be accessed and spent by:

(i) for the remaining district, the local school board of the remaining district; and

(ii) for the new district, the local school board of the new district.

(e) (i) The remaining district may use its portion of the money made available under Subsection (6)(b) to pay for remaining district startup costs.

(ii) The new district may use its portion of the money made available under Subsection (6)(b) to pay for new district startup costs.

(7) (a) The existing district shall transfer title or, if applicable, partial title of property to the new school district in accordance with the allocation of property by the transition teams, as stated in the report under Subsection (4)(c)(ii).

(b) The existing district shall complete each transfer of title or, if applicable, partial title to real property and vehicles by July 1 of the second calendar year following the local school board general election date described in Subsection (3)(a)(i), except as that date is changed by the mutual agreement of:

(i) the local school board of the existing district;

(ii) the local school board of the remaining district; and

(iii) the local school board of the new district.

(c) The existing district shall complete the transfer of all property not included in Subsection (7)(b) by November 1 of the second calendar year after the local school board general election date described in Subsection (3)(a)(i).

(8) Except as provided in Subsections (6) and (7), after the creation election date an existing school district may not transfer or agree to transfer title to district property without the prior consent of:

(a) the legislative body of the city in which the new district is located, for a new district located entirely within a single city; or

(b) the legislative bodies of all interlocal agreement participants, for each other new district.

(9) This section does not apply to the creation of a new district initiated through a citizens' initiative petition or at the request of a local school board under Section 53A-2-118.

Amended by Chapter 300, 2011 General Session

#### **53A-2-118.2. New school district property tax -- Limitations.**

(1) (a) A new school district created under Section 53A-2-118.1 may not impose a property tax prior to the fiscal year in which the new school district assumes responsibility for providing student instruction.

(b) The remaining school district retains authority to impose property taxes on the existing school district, including the territory of the new school district, until the

fiscal year in which the new school district assumes responsibility for providing student instruction.

(2) (a) If at the time a new school district created pursuant to Section 53A-2-118.1 assumes responsibility for student instruction any portion of the territory within the new school district was subject to a levy pursuant to Section 53A-17a-133, the new school district's board may:

- (i) discontinue the levy for the new school district;
- (ii) impose a levy on the new school district as provided in Section 53A-17a-133;

or

- (iii) impose the levy on the new school district, subject to Subsection (2)(b).

(b) If the new school district's board applies a levy to the new school district pursuant to Subsection (2)(a)(iii), the levy may not exceed the maximum duration or rate authorized by the voters of the existing district or districts at the time of the vote to create the new school district.

Amended by Chapter 371, 2011 General Session

**53A-2-118.4. Property tax levies in new district and remaining district -- Distribution of property tax revenue.**

(1) As used in this section:

(a) "Divided school district" or "existing district" means a school district from which a new district is created.

(b) "New district" means a school district created under Section 53A-2-118.1 after May 10, 2011.

(c) "Property tax levy" means a property tax levy that a school district is authorized to impose, except:

- (i) the minimum basic rate imposed under Section 53A-17a-135;
- (ii) a debt service levy imposed under Section 11-14-310; or
- (iii) a judgment levy imposed under Section 59-2-1330.

(d) "Qualifying taxable year" means the calendar year in which a new district begins to provide educational services.

(e) "Remaining district" means an existing district after the creation of a new district.

(2) A new district and remaining district shall, for a period of five consecutive years beginning in the qualifying taxable year, continue to impose property tax levies that were imposed by the divided school district in the taxable year prior to the qualifying taxable year.

(3) Except as provided in Subsection (6), a property tax levy that a new district and remaining district are required to impose under Subsection (2) shall be set at a rate that:

- (a) is uniform in the new district and remaining district; and

(b) generates the same amount of revenue that was generated by the property tax levy within the divided school district in the taxable year prior to the qualifying taxable year.

(4) (a) Except as provided in Subsection (4)(b), the county treasurer of the county in which a property tax levy is imposed under Subsection (2) shall distribute

revenues generated by the property tax levy to the new district and remaining district in proportion to the percentage of the divided school district's enrollment on the October 1 prior to the new district commencing educational services that were enrolled in schools currently located in the new district or remaining district.

(b) The county treasurer of a county of the first class shall distribute revenues generated by a capital local levy of .0006 that a school district in a county of the first class is required to impose under Section 53A-16-113 in accordance with the distribution method specified in Section 53A-16-114.

(5) On or before March 31, a county treasurer shall distribute revenues generated by a property tax levy imposed under Subsection (2) in the prior calendar year to a new district and remaining district as provided in Subsection (4).

(6) (a) Subject to the notice and public hearing requirements of Section 59-2-919, a new district or remaining district may set a property tax rate higher than the rate required by Subsection (3), up to:

(i) the maximum rate, if any, allowed by law; or  
(ii) the maximum rate authorized by voters for a voted local levy under Section 53A-17a-133.

(b) The revenues generated by the portion of a property tax rate in excess of the rate required by Subsection (3) shall be retained by the district that imposes the higher rate.

Amended by Chapter 116, 2012 General Session

**53A-2-119. Reapportionment -- Local school board membership.**

(1) Upon the creation of a new school district, the county legislative body shall reapportion the affected school districts pursuant to Section 20A-14-201.

(2) Except as provided in Section 53A-2-118.1, school board membership in the affected school districts shall be determined under Title 20A, Chapter 14, Part 2, Nomination and Election of Members of Local Boards of Education.

Amended by Chapter 230, 2010 General Session

**53A-2-120. Transfer of school property to new school district.**

(1) (a) (i) On July 1 of the year following the school board elections for a new district created pursuant to a citizens' initiative petition or school board request under Section 53A-2-118 and an existing district as provided in Section 53A-2-119, the board of the existing district shall convey and deliver to the board of the new district all school property which the new district is entitled to receive.

(ii) Any disagreements as to the disposition of school property shall be resolved by the county legislative body.

(iii) Subsection (1)(a)(ii) does not apply to disagreements between transition teams about the proper allocation of property under Subsection 53A-2-118.1(4).

(b) An existing district shall transfer property to a new district created under Section 53A-2-118.1 in accordance with Section 53A-2-118.1.

(2) Title vests in the new school board, including all rights, claims, and causes of action to or for the property, for the use or the income from the property, for conversion,

disposition, or withholding of the property, or for any damage or injury to the property.

(3) The new school board may bring and maintain actions to recover, protect, and preserve the property and rights of the district's schools and to enforce contracts.

Amended by Chapter 295, 2011 General Session

**53A-2-121. Tax to pay for indebtedness of divided school district.**

(1) (a) For a new district created prior to May 10, 2011, the local school boards of the remaining and new districts shall determine the portion of the divided school district's bonded indebtedness and other indebtedness for which the property within the new district remains subject to the levy of taxes to pay a proportionate share of the divided school district's outstanding indebtedness.

(b) The proportionate share of the divided school district's outstanding indebtedness for which property within the new district remains subject to the levy of taxes shall be calculated by determining the proportion that the total assessed valuation of the property within the new district bears to the total assessed valuation of the divided school district:

- (i) in the year immediately preceding the date the new district was created; or
- (ii) at a time mutually agreed upon by the local school boards of the new district and the remaining district.

(c) The agreement reflecting the determinations made under this Subsection (1) shall take effect upon being filed with the county legislative body and the State Board of Education.

(2) (a) Except as provided in Subsection (2)(b), the local school board of a new district created prior to May 10, 2011 shall levy a tax on property within the new district sufficient to pay the new district's proportionate share of the indebtedness determined under Subsection (1).

(b) If a new district has money available to pay the new district's proportionate share of the indebtedness determined under Subsection (1), the new district may abate a property tax to the extent of money available.

(3) As used in Subsections (4) and (5), "outstanding bonded indebtedness" means debt owed for a general obligation bond issued by the divided school district:

- (a) prior to the creation of the new district; or
- (b) in accordance with a mutual agreement of the local school boards of the remaining and new districts under Subsection (6).

(4) If a new district is created on or after May 10, 2011, property within the new district and the remaining district is subject to the levy of a tax to pay the divided school district's outstanding bonded indebtedness as provided in Subsection (5).

(5) (a) Except as provided in Subsection (5)(b), the local school board of the new district and the local school board of the remaining district shall impose a tax levy at a rate that:

- (i) generates from the combined districts the amount of revenue required each year to meet the outstanding bonded indebtedness of the divided school district; and
- (ii) is uniform within the new district and remaining district.

(b) A local school board of a new district may abate a property tax required to be imposed under Subsection (5)(a) to the extent the new district has money available to

pay to the remaining district the amount of revenue that would be generated within the new district from the tax rate specified in Subsection (5)(a).

(6) (a) The local school boards of the remaining and new districts shall determine by mutual agreement the disposition of bonds approved but not issued by the divided school district before the creation of the new district based primarily on the representation made to the voters at the time of the bond election.

(b) Before a determination is made under Subsection (6)(a), a remaining district may not issue bonds approved but not issued before the creation of the new district if property in the new district would be subject to the levy of a tax to pay the bonds.

Amended by Chapter 295, 2011 General Session

**53A-2-122. Employees of a new district.**

(1) Upon the creation of a new district:

(a) an employee of an existing district who is employed at a school that is transferred to the new district shall become an employee of the new district; and

(b) the school board of the new district shall:

(i) have discretion in the hiring of all other staff;

(ii) adopt the personnel policies and practices of the existing district, including salary schedules and benefits; and

(iii) enter into agreements with employees of the new district, or their representatives, that have the same terms as those in the negotiated agreements between the existing district and its employees.

(2) (a) Subject to Subsection (2)(b), an employee of a school district from which a new district is created who becomes an employee of the new district shall retain the same status as a career or provisional employee with accrued seniority and accrued benefits.

(b) Subsection (2)(a) applies to:

(i) employees of an existing district who are transferred to a new district pursuant to Subsection (1)(a); and

(ii) employees of a school district from which a new district is created who are hired by the new district within one year of the date of the creation of the new district.

(3) An employee who is transferred to a new district pursuant to Subsection (1)(a) and is rehired by the existing district within one year of the date of the creation of the new district shall, when rehired by the existing district, retain the same status as a career or provisional employee with accrued seniority and accrued benefits.

Amended by Chapter 183, 2006 General Session

**53A-2-123. Notice before preparing or amending a long-range plan or acquiring certain property.**

(1) As used in this section:

(a) "Affected entity" means each county, municipality, local district under Title 17B, Limited Purpose Local Government Entities - Local Districts, special service district under Title 17D, Chapter 1, Special Service District Act, interlocal cooperation entity established under Title 11, Chapter 13, Interlocal Cooperation Act, and specified

public utility:

(i) whose services or facilities are likely to require expansion or significant modification because of an intended use of land; or

(ii) that has filed with the school district a copy of the general or long-range plan of the county, municipality, local district, special service district, school district, interlocal cooperation entity, or specified public utility.

(b) "Specified public utility" means an electrical corporation, gas corporation, or telephone corporation, as those terms are defined in Section 54-2-1.

(2) (a) If a school district located in a county of the first or second class prepares a long-range plan regarding its facilities proposed for the future or amends an already existing long-range plan, the school district shall, before preparing a long-range plan or amendments to an existing long-range plan, provide written notice, as provided in this section, of its intent to prepare a long-range plan or to amend an existing long-range plan.

(b) Each notice under Subsection (2)(a) shall:

(i) indicate that the school district intends to prepare a long-range plan or to amend a long-range plan, as the case may be;

(ii) describe or provide a map of the geographic area that will be affected by the long-range plan or amendments to a long-range plan;

(iii) be:

(A) sent to each county in whose unincorporated area and each municipality in whose boundaries is located the land on which the proposed long-range plan or amendments to a long-range plan are expected to indicate that the proposed facilities will be located;

(B) sent to each affected entity;

(C) sent to the Automated Geographic Reference Center created in Section 63F-1-506;

(D) sent to each association of governments, established pursuant to an interlocal agreement under Title 11, Chapter 13, Interlocal Cooperation Act, of which a county or municipality described in Subsection (2)(b)(iii)(A) is a member; and

(E) placed on the Utah Public Notice Website created under Section 63F-1-701;

(iv) with respect to the notice to counties and municipalities described in Subsection (2)(b)(iii)(A) and affected entities, invite them to provide information for the school district to consider in the process of preparing, adopting, and implementing the long-range plan or amendments to a long-range plan concerning:

(A) impacts that the use of land proposed in the proposed long-range plan or amendments to a long-range plan may have on the county, municipality, or affected entity; and

(B) uses of land that the county, municipality, or affected entity is planning or considering that may conflict with the proposed long-range plan or amendments to a long-range plan; and

(v) include the address of an Internet website, if the school district has one, and the name and telephone number of a person where more information can be obtained concerning the school district's proposed long-range plan or amendments to a long-range plan.

(3) (a) Except as provided in Subsection (3)(d), each school district intending to

acquire real property in a county of the first or second class for the purpose of expanding the district's infrastructure or other facilities shall provide written notice, as provided in this Subsection (3), of its intent to acquire the property if the intended use of the property is contrary to:

(i) the anticipated use of the property under the county or municipality's general plan; or

(ii) the property's current zoning designation.

(b) Each notice under Subsection (3)(a) shall:

(i) indicate that the school district intends to acquire real property;

(ii) identify the real property; and

(iii) be sent to:

(A) each county in whose unincorporated area and each municipality in whose boundaries the property is located; and

(B) each affected entity.

(c) A notice under this Subsection (3) is a protected record as provided in Subsection 63G-2-305(8).

(d) (i) The notice requirement of Subsection (3)(a) does not apply if the school district previously provided notice under Subsection (2) identifying the general location within the municipality or unincorporated part of the county where the property to be acquired is located.

(ii) If a school district is not required to comply with the notice requirement of Subsection (3)(a) because of application of Subsection (3)(d)(i), the school district shall provide the notice specified in Subsection (3)(a) as soon as practicable after its acquisition of the real property.

Amended by Chapter 445, 2013 General Session

**53A-2-201. Child's school district of residence -- Determination -- Responsibility for providing educational services.**

(1) The school district of residence of a minor child whose custodial parent or legal guardian resides within Utah is:

(a) the school district in which the custodial parent or legal guardian resides; or

(b) the school district in which the child resides:

(i) while in the custody or under the supervision of a Utah state agency;

(ii) while under the supervision of a private or public agency which is in compliance with Section 62A-4a-606 and is authorized to provide child placement services by the state;

(iii) while living with a responsible adult resident of the district, if a determination has been made in accordance with rules of the district board of education that:

(A) the child's physical, mental, moral, or emotional health would best be served by considering the child to be a resident for school purposes;

(B) exigent circumstances exist which would not permit the case to be appropriately addressed under Section 53A-2-207; and

(C) considering the child to be a resident of the district under this subsection would not violate any other law or rule of the State Board of Education; or

(iv) if the child is married or has been determined to be an emancipated minor

by a court of law or by a state administrative agency authorized to make that determination.

(2) A minor child whose custodial parent or legal guardian does not reside in the state is considered to be a resident of the district in which the child lives, unless that designation violates any other law or rule of the State Board of Education, if:

(a) the child is married or an emancipated minor under Subsection (1)(b)(iv); or  
(b) the child lives with a resident of the district who is a responsible adult and whom the district agrees to designate as the child's legal guardian under Section 53A-2-202; or

(c) if permissible under policies adopted by the local school board, it is established to the satisfaction of the local school board that:

(i) the child lives with a responsible adult who is a resident of the district and is the child's noncustodial parent, grandparent, brother, sister, uncle, or aunt;

(ii) the child's presence in the district is not for the primary purpose of attending the public schools;

(iii) the child's physical, mental, moral, or emotional health would best be served by considering the child to be a resident for school purposes; and

(iv) the child is prepared to abide by the rules and policies of the school and school district in which attendance is sought.

(3) (a) If admission is sought under Subsection (1)(b)(iii), or (2)(c), then the district may require the person with whom the child lives to be designated as the child's custodian in a durable power of attorney, issued by the party who has legal custody of the child, granting the custodian full authority to take any appropriate action, including authorization for educational or medical services, in the interests of the child.

(b) Both the party granting and the party empowered by the power of attorney shall agree to:

(i) assume responsibility for any fees or other charges relating to the child's education in the district; and

(ii) if eligibility for fee waivers is claimed under Section 53A-12-103, provide the school district with all financial information requested by the district for purposes of determining eligibility for fee waivers.

(c) Notwithstanding Section 75-5-103, a power of attorney meeting the requirements of this section and accepted by the school district shall remain in force until the earliest of the following occurs:

(i) the child reaches the age of 18, marries, or becomes emancipated;  
(ii) the expiration date stated in the document; or  
(iii) the power of attorney is revoked or rendered inoperative by the grantor or grantee, or by order of a court of competent jurisdiction.

(4) A power of attorney does not confer legal guardianship.

(5) Each school district is responsible for providing educational services for all children of school age who are residents of the district.

(6) Students who were enrolled in a Utah public school by October 1, 1992, and would, but for this part, have been allowed to attend public schools without payment of tuition shall be permitted to continue their attendance until graduation or termination of enrollment on the same basis as Utah resident students.



Amended by Chapter 282, 1995 General Session

**53A-2-202. Guardianship for residency purposes by responsible adult --  
Procedure to obtain -- Termination.**

(1) For purposes of this part, "responsible adult" means a person 21 years of age or older who is a resident of this state and is willing and able to provide reasonably adequate food, clothing, shelter, and supervision for a minor child.

(2) A local board of education may adopt a policy permitting it to designate a responsible adult residing in the school district as legal guardian of a child whose custodial parent or legal guardian does not reside within the state upon compliance with the following requirements:

(a) submission to the school district of a signed and notarized affidavit by the child's custodial parent or legal guardian stating that:

(i) the child's presence in the district is not for the primary purpose of attending the public schools;

(ii) the child's physical, mental, moral, or emotional health would best be served by a transfer of guardianship to the Utah resident;

(iii) the affiant is aware that designation of a guardian under this section is equivalent to a court-ordered guardianship under Section 75-5-206 and will suspend or terminate any existing parental or guardianship rights in the same manner as would occur under a court-ordered guardianship;

(iv) the affiant consents and submits to any such suspension or termination of parental or guardianship rights;

(v) the affiant consents and submits to the jurisdiction of the state district court in which the school district is located in any action relating to the guardianship or custody of the child in question;

(vi) the affiant designates a named responsible adult as agent, authorized to accept service on behalf of the affiant of any process, notice, or demand required or permitted to be served in connection with any action under Subsection (2)(a)(v); and

(vii) it is the affiant's intent that the child become a permanent resident of the state and reside with and be under the supervision of the named responsible adult;

(b) submission to the school district of a signed and notarized affidavit by the responsible adult stating that:

(i) the affiant is a resident of the school district and desires to become the guardian of the child;

(ii) the affiant consents and submits to the jurisdiction of the state district court in which the school district is located in any action relating to the guardianship or custody of the child in question;

(iii) the affiant will accept the responsibilities of guardianship for the duration, including the responsibility to provide adequate supervision, discipline, food, shelter, educational and emotional support, and medical care for the child if designated as the child's guardian; and

(iv) the affiant accepts the designation as agent under Subsection (2)(a)(vi);

(c) submission to the school district of a signed and notarized affidavit by the child stating that:

(i) the child desires to become a permanent resident of Utah and reside with and

be responsible to the named responsible adult; and

(ii) the child will abide by all applicable rules of any public school which the child may attend after guardianship is awarded; and

(d) if the child's custodial parent or legal guardian cannot be found in order to execute the statement required under Subsection (2)(a), the responsible adult must submit an affidavit to that effect to the district. The district shall also submit a copy of the statement to the Criminal Investigations and Technical Services Division of the Department of Public Safety, established in Section 53-10-103.

(3) The district may require the responsible adult, in addition to the documents set forth in Subsection (2), to also submit any other documents which are relevant to the appointment of a guardian of a minor or which the district reasonably believes to be necessary in connection with a given application to substantiate any claim or assertion made in connection with the application for guardianship.

(4) Upon receipt of the information and documentation required under Subsections (2) and (3), and a determination by the board that the information is accurate, that the requirements of this section have been met, and that the interests of the child would best be served by granting the requested guardianship, the school board or its authorized representative may designate the applicant as guardian of the child by issuing a designation of guardianship letter to the applicant.

(5) (a) If a local school board has adopted a policy permitting the board to designate a guardian under this section, a denial of an application for appointment of a guardian may be appealed to the district court in which the school district is located.

(b) The court shall uphold the decision of the board unless it finds, by clear and convincing evidence, that the board's decision was arbitrary and capricious.

(c) An applicant may, rather than appealing the board's decision under Subsection (5)(b), file an original Petition for Appointment of Guardian with the district court, which action shall proceed as if no decision had been made by the school board.

(6) A responsible adult obtaining guardianship under this section has the same rights, authority, and responsibilities as a guardian appointed under Section 75-5-201.

(7) (a) The school district shall deliver the original documents filed with the school district, together with a copy of the designation of guardianship issued by the district, in person or by any form of mail requiring a signed receipt, to the clerk of the state district court in which the school district is located.

(b) The court may not charge the school district a fee for filing guardianship papers under this section.

(8) (a) The authority and responsibility of a custodial parent or legal guardian submitting an affidavit under this section may be restored by the district, and the guardianship obtained under this section terminated by the district:

(i) upon submission to the school district in which the guardianship was obtained of a signed and notarized statement by the person who consented to guardianship under Subsection (2)(a) requesting termination of the guardianship; or

(ii) by the person accepting guardianship under Subsection (2)(b) requesting the termination of the guardianship.

(b) If the school district determines that it would not be in the best interests of the child to terminate the guardianship, the district may refer the request for termination to the state district court in which the documents were filed under Subsection (5) for

further action consistent with the interests of the child.

(9) The school district shall retain copies of all documents required by this section until the child in question has reached the age of 18 unless directed to surrender the documents by a court of competent jurisdiction.

(10) (a) Intentional submission to a school district of fraudulent or misleading information under this part is punishable under Section 76-8-504.

(b) A school district which has reason to believe that a party has intentionally submitted false or misleading information under this part may, after notice and opportunity for the party to respond to the allegation:

(i) void any guardianship, authorization, or action which was based upon the false or misleading information; and

(ii) recover, from the party submitting the information, the full cost of any benefits received by the child on the basis of the false or misleading information, including tuition, fees, and other unpaid school charges, together with any related costs of recovery.

(c) A student whose guardianship or enrollment has been terminated under this section may, upon payment of all applicable tuition and fees, continue in enrollment until the end of the school year unless excluded from attendance for cause.

Amended by Chapter 263, 1998 General Session

**53A-2-203.5. Recognition of guardianship.**

(1) A document issued by other than a court of law which purports to award guardianship to a person who is not a legal resident of the jurisdiction in which the guardianship is awarded is not valid in the state of Utah until reviewed and approved by a Utah court.

(2) The procedure for obtaining approval under Subsection (1) is the procedure required under Title 75, Chapter 5, Part 2, for obtaining a court appointment of a guardian.

Enacted by Chapter 124, 1998 General Session

**53A-2-204. District paying tuition -- Effect on state aid.**

(1) A local school board may by written agreement pay the tuition of a child attending school in a district outside the state. Both districts shall approve the agreement and file it with the State Board of Education.

(2) The average daily membership of the child may be added to that of other eligible children attending schools within the district of residence for the purpose of apportionment of state funds.

(3) The district of residence shall bear any excess tuition costs over the state's contribution for attendance in the district of residence unless otherwise approved in advance by the State Board of Education.

Enacted by Chapter 2, 1988 General Session

**53A-2-205. Permitting attendance by nonresident of the state -- Tuition.**

(1) A local school board may permit a child residing outside the state to attend school within the district. With the exception of a child enrolled under Section 53A-2-206, the child is not included for the purpose of apportionment of state funds.

(2) The board shall charge the nonresident child tuition at least equal to the per capita cost of the school program in which the child enrolls unless the board, in open meeting, determines to waive the charge for that child in whole or in part. The official minutes of the meeting shall reflect the determination.

Enacted by Chapter 2, 1988 General Session

**53A-2-206. Interstate compact students -- Inclusion in attendance count -- Funding for foreign exchange students -- Annual report -- Requirements for exchange student agencies.**

(1) A school district or charter school may include the following students in the district's or school's membership and attendance count for the purpose of apportionment of state money:

(a) a student enrolled under an interstate compact, established between the State Board of Education and the state education authority of another state, under which a student from one compact state would be permitted to enroll in a public school in the other compact state on the same basis as a resident student of the receiving state; or

(b) a student receiving services under Title 62A, Chapter 4a, Part 7, Interstate Compact on Placement of Children.

(2) (a) A school district or charter school may include foreign exchange students in the district's or school's membership and attendance count for the purpose of apportionment of state money, except as provided in Subsections (2)(b) through (d).

(b) (i) Notwithstanding Section 53A-17a-106, foreign exchange students may not be included in average daily membership for the purpose of determining the number of weighted pupil units in the grades 1-12 basic program.

(ii) Subject to the limitation in Subsection (2)(c), the number of weighted pupil units in the grades 1-12 basic program attributed to foreign exchange students shall be equal to the number of foreign exchange students who were:

(A) enrolled in a school district or charter school on October 1 of the previous fiscal year; and

(B) sponsored by an agency approved by the district's local school board or charter school's governing board.

(c) (i) The total number of foreign exchange students in the state that may be counted for the purpose of apportioning state money under Subsection (2)(b) shall be the lesser of:

(A) the number of foreign exchange students enrolled in public schools in the state on October 1 of the previous fiscal year; or

(B) 328 foreign exchange students.

(ii) The State Board of Education shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to administer the cap on the number of foreign exchange students that may be counted for the purpose of apportioning state money under Subsection (2)(b).

(d) Notwithstanding Sections 53A-17a-133 and 53A-17a-164, weighted pupil units in the grades 1 through 12 basic program for foreign exchange students, as determined by Subsections (2)(b) and (c), may not be included for the purposes of determining a school district's state guarantee money under the voted or board local levies.

(3) A school district or charter school may:

(a) enroll foreign exchange students that do not qualify for state money; and  
(b) pay for the costs of those students with other funds available to the school district or charter school.

(4) Due to the benefits to all students of having the opportunity to become familiar with individuals from diverse backgrounds and cultures, school districts are encouraged to enroll foreign exchange students, as provided in Subsection (3), particularly in schools with declining or stable enrollments where the incremental cost of enrolling the foreign exchange student may be minimal.

(5) The board shall make an annual report to the Legislature on the number of exchange students and the number of interstate compact students sent to or received from public schools outside the state.

(6) (a) A local school board or charter school governing board shall require each approved exchange student agency to provide it with a sworn affidavit of compliance prior to the beginning of each school year.

(b) The affidavit shall include the following assurances:

- (i) that the agency has complied with all applicable policies of the board;
- (ii) that a household study, including a background check of all adult residents, has been made of each household where an exchange student is to reside, and that the study was of sufficient scope to provide reasonable assurance that the exchange student will receive proper care and supervision in a safe environment;
- (iii) that host parents have received training appropriate to their positions, including information about enhanced criminal penalties under Subsection 76-5-406(10) for persons who are in a position of special trust;
- (iv) that a representative of the exchange student agency shall visit each student's place of residence at least once each month during the student's stay in Utah;
- (v) that the agency will cooperate with school and other public authorities to ensure that no exchange student becomes an unreasonable burden upon the public schools or other public agencies;
- (vi) that each exchange student will be given in the exchange student's native language names and telephone numbers of agency representatives and others who could be called at any time if a serious problem occurs; and
- (vii) that alternate placements are readily available so that no student is required to remain in a household if conditions appear to exist which unreasonably endanger the student's welfare.

(7) (a) A local school board or charter school governing board shall provide each approved exchange student agency with a list of names and telephone numbers of individuals not associated with the agency who could be called by an exchange student in the event of a serious problem.

(b) The agency shall make a copy of the list available to each of its exchange students in the exchange student's native language.

(8) Notwithstanding Subsection (2)(c)(i), a school district or charter school shall enroll a foreign exchange student if the foreign exchange student:

- (a) is sponsored by an agency approved by the State Board of Education;
- (b) attends the same school during the same time period that another student from the school is:
  - (i) sponsored by the same agency; and
  - (ii) enrolled in a school in a foreign country; and
  - (c) is enrolled in the school for one year or less.

Amended by Chapter 398, 2012 General Session

**53A-2-206.5. Definitions.**

As used in Sections 53A-2-207 through 53A-2-213:

(1) "Early enrollment" means:

(a) except as provided in Subsection (1)(b), application prior to the third Friday in February for admission for the next school year to a school that is not a student's school of residence; and

(b) application prior to November 1 for admission for the next school year to a school that is not a student's school of residence if:

(i) the school district is doing a district wide grade reconfiguration of its elementary, middle, junior, and senior high schools; and

(ii) the grade reconfiguration described in Subsection (1)(b) will be implemented in the next school year.

(2) (a) "Early enrollment school capacity" or "maximum capacity" means the total number of students who could be served in a school building if each of the building's instructional stations were to have the enrollment specified in Subsection (2)(b).

(b) (i) Except as provided in Subsection (2)(b)(ii):

(A) for an elementary school, an instructional station shall have an enrollment at least equal to the school district's average class size for the corresponding grade; and

(B) for a middle, junior, or senior high school, an instructional station shall have an enrollment at least equal to the district's average class size for similar classes.

(ii) (A) A local school board shall determine the instructional station capacity for laboratories, physical education facilities, shops, study halls, self-contained special education classrooms, facilities jointly financed by the school district and another community agency for joint use, and similar rooms.

(B) Capacity for self-contained special education classrooms shall be based upon students per class as defined by State Board of Education and federal special education standards.

(3) (a) "Instructional station" means a classroom, laboratory, shop, study hall, or physical education facility to which a local board of education could reasonably assign a class, teacher, or program during a given class period.

(b) More than one instructional station may be assigned to a classroom, laboratory, shop, study hall, or physical education facility during a class period.

(4) "Late enrollment" means application:

(a) after the third Friday in February for admission for the next school year to a school that is not the student's school of residence; or

(b) for admission for the current year to a school that is not the student's school of residence.

(5) (a) "Late enrollment school capacity" or "adjusted capacity" means the total number of students who could be served in a school if each teacher were to have the class size specified in Subsection (5)(b).

(b) (i) An elementary school teacher shall have a class size at least equal to the district's average class size for the corresponding grade.

(ii) A middle, junior, or senior high school teacher shall have a class size at least equal to the district's average class size for similar classes.

(6) "Nonresident student" means a student who lives outside the boundaries of the school attendance area.

(7) "Open enrollment threshold" means:

(a) for early enrollment, a projected school enrollment level that is the greater of:

(i) 90% of the maximum capacity; or

(ii) maximum capacity minus 40 students; and

(b) for late enrollment, actual school enrollment that is the greater of:

(i) 90% of adjusted capacity; or

(ii) adjusted capacity minus 40 students.

(8) "Projected school enrollment" means the current year enrollment of a school as of October 1, adjusted for projected growth for the next school year.

(9) "School attendance area" means an area established by a local school board from which students are assigned to attend a certain school.

(10) "School of residence" means the school to which a student is assigned to attend based on the student's place of residence.

Amended by Chapter 67, 2012 General Session

**53A-2-207. Open enrollment options -- Procedures -- Processing fee -- Continuing enrollment.**

(1) Each local school board is responsible for providing educational services consistent with Utah state law and rules of the State Board of Education for each student who resides in the district and, as provided in this section through Section 53A-2-213 and to the extent reasonably feasible, for any student who resides in another district in the state and desires to attend a school in the district.

(2) (a) A school is open for enrollment of nonresident students if the enrollment level is at or below the open enrollment threshold.

(b) If a school's enrollment falls below the open enrollment threshold, the local school board shall allow a nonresident student to enroll in the school.

(3) A local school board may allow enrollment of nonresident students in a school that is operating above the open enrollment threshold.

(4) (a) A local school board shall adopt policies describing procedures for nonresident students to follow in applying for entry into the district's schools.

(b) Those procedures shall provide, as a minimum, for:

(i) distribution to interested parties of information about the school or school district and how to apply for admission;

(ii) use of standard application forms prescribed by the State Board of

Education;

(iii) (A) submission of applications from December 1 through the third Friday in February by those seeking admission during the early enrollment period for the following year; or

(B) submission of applications from August 1 through November 1 by those seeking admission during the early enrollment period for the following year in a school district described in Subsection 53A-2-206.5(1)(b);

(iv) submission of applications by those seeking admission during the late enrollment period;

(v) written notification to the student's parent or legal guardian of acceptance or rejection of an application:

(A) within six weeks after receipt of the application by the district or by March 31, whichever is later, for applications submitted during the early enrollment period;

(B) within two weeks after receipt of the application by the district or by the Friday before the new school year begins, whichever is later, for applications submitted during the late enrollment period for admission in the next school year; and

(C) within two weeks after receipt of the application by the district, for applications submitted during the late enrollment period for admission in the current year;

(vi) written notification to the resident school for intradistrict transfers or the resident district for interdistrict transfers upon acceptance of a nonresident student for enrollment; and

(vii) written notification to the parents or legal guardians of each student that resides within the school district and other interested parties of the revised early enrollment period described in Subsection 53A-2-206.5(1)(b) if:

(A) the school district is doing a district wide grade reconfiguration of its elementary, middle, junior, and senior high schools; and

(B) the grade reconfiguration described in Subsection (4)(b)(vii)(A) will be implemented in the next school year.

(c) (i) Notwithstanding the dates established in Subsection (4)(b) for submitting applications and notifying parents of acceptance or rejection of an application, a local school board may delay the dates if a local school board is not able to make a reasonably accurate projection of the early enrollment school capacity or late enrollment school capacity of a school due to:

(A) school construction or remodeling;

(B) drawing or revision of school boundaries; or

(C) other circumstances beyond the control of the local school board.

(ii) The delay may extend no later than four weeks beyond the date the local school board is able to make a reasonably accurate projection of the early enrollment school capacity or late enrollment school capacity of a school.

(5) A school district may charge a one-time \$5 processing fee, to be paid at the time of application.

(6) An enrolled nonresident student shall be permitted to remain enrolled in a school, subject to the same rules and standards as resident students, without renewed applications in subsequent years unless one of the following occurs:

(a) the student graduates;



- (b) the student is no longer a Utah resident;
- (c) the student is suspended or expelled from school; or
- (d) the district determines that enrollment within the school will exceed the school's open enrollment threshold.

(7) (a) Determination of which nonresident students will be excluded from continued enrollment in a school during a subsequent year under Subsection (6)(d) is based upon time in the school, with those most recently enrolled being excluded first and the use of a lottery system when multiple nonresident students have the same number of school days in the school.

(b) Nonresident students who will not be permitted to continue their enrollment shall be notified no later than March 15 of the current school year.

(8) The parent or guardian of a student enrolled in a school that is not the student's school of residence may withdraw the student from that school for enrollment in another public school by submitting notice of intent to enroll the student in:

- (a) the district of residence; or
- (b) another nonresident district.

(9) Unless provisions have previously been made for enrollment in another school, a nonresident district releasing a student from enrollment shall immediately notify the district of residence, which shall enroll the student in the resident district and take such additional steps as may be necessary to ensure compliance with laws governing school attendance.

(10) (a) Except as provided in Subsection (10)(c), a student who transfers between schools, whether effective on the first day of the school year or after the school year has begun, by exercising an open enrollment option under this section may not transfer to a different school during the same school year by exercising an open enrollment option under this section.

(b) The restriction on transfers specified in Subsection (10)(a) does not apply to a student transfer made for health or safety reasons.

(c) A local school board may adopt a policy allowing a student to exercise an open enrollment option more than once in a school year.

(11) Notwithstanding Subsections (2) and (6)(d), a student who is enrolled in a school that is not the student's school of residence, because school bus service is not provided between the student's neighborhood and school of residence for safety reasons:

- (a) shall be allowed to continue to attend the school until the student finishes the highest grade level offered; and

- (b) shall be allowed to attend the middle school, junior high school, or high school into which the school's students feed until the student graduates from high school.

(12) Notwithstanding any other provision of this part, a student shall be allowed to enroll in any charter school or other public school in any district, including a district where the student does not reside, if the enrollment is necessary, as determined by the Division of Child and Family Services, to comply with the provisions of 42 U.S.C. Section 675.

Amended by Chapter 67, 2012 General Session

**53A-2-208. Rules for acceptance and rejection of applications.**

(1) (a) A local school board shall adopt rules governing acceptance and rejection of applications required under Section 53A-2-207.

(b) The rules adopted under Subsection (1)(a) shall include policies and procedures to assure that decisions regarding enrollment requests are administered fairly without prejudice to any student or class of student, except as provided in Subsection (2).

(2) Standards for accepting or rejecting an application for enrollment may include:

- (a) for an elementary school, the capacity of the grade level;
- (b) maintenance of heterogeneous student populations if necessary to avoid violation of constitutional or statutory rights of students;
- (c) not offering, or having capacity in, an elementary or secondary special education or other special program the student requires;
- (d) maintenance of reduced class sizes:
  - (i) in a Title I school that uses federal, state, and local money to reduce class sizes for the purpose of improving student achievement; or
  - (ii) in a school that uses school trust money to reduce class size;
- (e) willingness of prospective students to comply with district policies; and
- (f) giving priority to intradistrict transfers over interdistrict transfers.

(3) (a) Standards for accepting or rejecting applications for enrollment may not include:

- (i) previous academic achievement;
  - (ii) athletic or other extracurricular ability;
  - (iii) the fact that the student requires special education services for which space is available;
  - (iv) proficiency in the English language; or
  - (v) previous disciplinary proceedings, except as provided in Subsection (3)(b).
- (b) A board may provide for the denial of applications from students who:
- (i) have committed serious infractions of the law or school rules, including rules of the district in which enrollment is sought; or
  - (ii) have been guilty of chronic misbehavior which would, if it were to continue after the student was admitted:
    - (A) endanger persons or property;
    - (B) cause serious disruptions in the school; or
    - (C) place unreasonable burdens on school staff.

(c) A board may also provide for provisional enrollment of students with prior behavior problems, establishing conditions under which enrollment of a nonresident student would be permitted or continued.

(4) (a) The State Board of Education, in consultation with the Utah High School Activities Association, shall establish policies regarding nonresident student participation in interscholastic competition.

(b) Nonresident students shall be eligible for extracurricular activities at a public school consistent with eligibility standards as applied to students that reside within the school attendance area, except as provided by policies established under Subsection (4)(a).

(5) For each school in the district, the local school board shall post on the school district's website:

- (a) the school's maximum capacity;
- (b) the school's adjusted capacity;
- (c) the school's projected enrollment used in the calculation of the open enrollment threshold;
- (d) actual enrollment on October 1, January 2, and April 1;
- (e) the number of nonresident student enrollment requests;
- (f) the number of nonresident student enrollment requests accepted; and
- (g) the number of resident students transferring to another school.

Amended by Chapter 346, 2008 General Session

**53A-2-209. Denial of enrollment -- Appeal.**

(1) Denial of initial or continuing enrollment in a nonresident school may be appealed to the board of education of the nonresident district.

(2) The decision of the board shall be upheld in any subsequent proceedings unless the board's decision is found, by clear and convincing evidence, to be in violation of applicable law or regulation, or to be arbitrary and capricious.

Repealed and Re-enacted by Chapter 119, 1993 General Session

**53A-2-210. Funding.**

(1) A student who enrolls in a nonresident district is considered a resident of that district for purposes of state funding.

(2) The State Board of Education shall adopt rules providing that:

(a) the resident district pay the nonresident district, for each of the resident district's students who enroll in the nonresident district, 1/2 of the amount by which the resident district's per student expenditure exceeds the value of the state's contribution; and

(b) if a student is enrolled in a nonresident district for less than a full year, the resident district shall pay a portion of the amount specified in Subsection (2)(a) based on the percentage of school days the student is enrolled in the nonresident district.

(3) (a) Except as provided in this Subsection (3), the parent or guardian of a nonresident student shall arrange for the student's own transportation to and from school.

(b) The State Board of Education may adopt rules under which nonresident students may be transported to their schools of attendance if:

(i) the transportation of students to schools in other districts would relieve overcrowding or other serious problems in the district of residence and the costs of transportation are not excessive; or

(ii) the Legislature has granted an adequate specific appropriation for that purpose.

(c) A receiving district shall provide transportation for a nonresident student on the basis of available space on an approved route within the district to the school of attendance if district students would be eligible for transportation to the same school

from that point on the bus route and the student's presence does not increase the cost of the bus route.

(d) Nothing in this section shall be construed as prohibiting the resident district or the receiving district from providing bus transportation on any approved route.

(e) Except as provided in Subsection (3)(b), the district of residence may not claim any state transportation costs for students enrolled in other school districts.

Amended by Chapter 346, 2008 General Session

**53A-2-211. Graduation credits.**

(1) A nonresident district shall accept credits toward graduation that were awarded by a school accredited or approved by the State Board of Education or a regional accrediting body recognized by the U.S. Department of Education.

(2) A nonresident district shall award a diploma to a nonresident student attending school within the district during the semester immediately preceding graduation if the student meets graduation requirements generally applicable to students in the school.

(3) A district may not require that a student attend school within the district for more than one semester prior to graduation in order to receive a diploma.

Amended by Chapter 119, 1993 General Session

**53A-2-213. Intradistrict transfers for students impacted by boundary changes -- Transportation of students who transfer within a district.**

(1) (a) In adjusting school boundaries, a local school board shall strive to avoid requiring current students to change schools and shall, to the extent reasonably feasible, accommodate parents who wish to avoid having their children attend different schools of the same level because of boundary changes which occur after one or more children in the family begin attending one of the affected schools.

(b) In granting interdistrict and intradistrict transfers to a particular school, the local school board shall take into consideration the fact that an applicant's brother or sister is attending the school or another school within the district.

(2) (a) A district shall receive transportation money under Sections 53A-17a-126 and 53A-17a-127 for resident students who enroll in schools other than the regularly assigned school on the basis of the distance from the student's residence to the school the student would have attended had the intradistrict attendance option not been used.

(b) The parent or guardian of the student shall arrange for the student's transportation to and from school, except that the district shall provide transportation on the basis of available space on an approved route within the district to the school of the student's attendance if the student would be otherwise eligible for transportation to the same school from that point on the bus route and the student's presence does not increase the cost of the bus route.

Amended by Chapter 346, 2008 General Session

**53A-2-214. Online students' participation in extracurricular activities.**

(1) As used in this section:

(a) "Online education" means the use of information and communication technologies to deliver educational opportunities to a student in a location other than a school.

(b) "Online student" means a student who:

(i) participates in an online education program sponsored or supported by the State Board of Education, a school district, or charter school; and

(ii) generates funding for the school district or school pursuant to Subsection 53A-17a-103(4) and rules of the State Board of Education.

(2) An online student is eligible to participate in extracurricular activities at:

(a) the school within whose attendance boundaries the student's custodial parent or legal guardian resides; or

(b) the public school from which the student withdrew for the purpose of participating in an online education program.

(3) A school other than a school described in Subsection (2)(a) or (b) may allow an online student to participate in extracurricular activities other than:

(a) interschool competitions of athletic teams sponsored and supported by a public school; or

(b) interschool contests or competitions for music, drama, or forensic groups or teams sponsored and supported by a public school.

(4) An online student is eligible for extracurricular activities at a public school consistent with eligibility standards as applied to full-time students of the public school.

(5) A school district or public school may not impose additional requirements on an online school student to participate in extracurricular activities that are not imposed on full-time students of the public school.

(6) (a) The State Board of Education shall make rules establishing fees for an online school student's participation in extracurricular activities at school district schools.

(b) The rules shall provide that:

(i) online school students pay the same fees as other students to participate in extracurricular activities;

(ii) online school students are eligible for fee waivers pursuant to Section 53A-12-103;

(iii) for each online school student who participates in an extracurricular activity at a school district school, the online school shall pay a share of the school district's costs for the extracurricular activity; and

(iv) an online school's share of the costs of an extracurricular activity shall reflect state and local tax revenues expended, except capital facilities expenditures, for an extracurricular activity in a school district or school divided by total student enrollment of the school district or school.

(c) In determining an online school's share of the costs of an extracurricular activity under Subsections (6)(b)(iii) and (iv), the State Board of Education may establish uniform fees statewide based on average costs statewide or average costs within a sample of school districts.

(7) When selection to participate in an extracurricular activity at a public school is made on a competitive basis, an online student is eligible to try out for and participate

in the activity as provided in this section.

Amended by Chapter 371, 2011 General Session

**53A-2-401. Title.**

This part is known as the "School District Surplus Lands Act."

Enacted by Chapter 339, 2006 General Session

**53A-2-402. Definitions.**

As used in this part:

- (1) "Eligible entity" means:
  - (a) a city or town with a population density of 3,000 or more people per square mile; or
  - (b) a county whose unincorporated area includes a qualifying township.
- (2) "Purchase price" means the greater of:
  - (a) an amount that is the average of:
    - (i) the appraised value of the surplus property, based on the predominant zone in the surrounding area, as indicated in an appraisal obtained by the eligible entity; and
    - (ii) the appraised value of the surplus property, based on the predominant zone in the surrounding area, as indicated in an appraisal obtained by the school district; and
  - (b) the amount the school district paid to acquire the surplus property.
- (3) "Qualifying township" means a township under Section 17-27a-306 that has a population density of 3,000 or more people per square mile within the boundaries of the township.
- (4) "Surplus property" means land owned by a school district that:
  - (a) was purchased with taxpayer money;
  - (b) is located within a city or town that is an eligible entity or within a qualifying township;
  - (c) consists of one contiguous tract at least three acres in size; and
  - (d) has been declared by the school district to be surplus.

Enacted by Chapter 339, 2006 General Session

**53A-2-403. Purchase of surplus property.**

- (1) An eligible entity may purchase, and each school district shall sell, surplus property as provided in this section.
- (2) (a) Upon declaring land to be surplus property, each school district shall give written notice to each eligible entity in which the surplus property is located.
  - (b) Each notice under Subsection (2)(a) shall:
    - (i) state that the school district has declared the land to be surplus property; and
    - (ii) describe the surplus property.
- (3) Subject to Subsection (4), an eligible entity may purchase the surplus property by paying the school district the purchase price.
- (4) (a) The legislative body of each eligible entity desiring to purchase surplus property under this section shall:

(i) within 90 days after the eligible entity receives notice under Subsection (2), adopt a resolution declaring the intent to purchase the surplus property and deliver a copy of the resolution to the school district; and

(ii) within 90 days after delivering a copy of the resolution under Subsection (4)(a)(i) to the school district, deliver to the school district an earnest money offer to purchase the surplus property at the purchase price.

(b) If an eligible entity fails to comply with either of the requirements under Subsection (4)(a) within the applicable time period, the eligible entity forfeits the right to purchase the surplus property.

(5) (a) An eligible entity may waive its right to purchase surplus property under this part by submitting a written waiver to the school district.

(b) If an eligible entity submits a waiver under Subsection (5)(a), the school district has no further obligation under this part to sell the surplus property to the eligible entity.

(6) Surplus property acquired by an eligible entity may not be used for any purpose other than:

(a) a county, city, or town hall;

(b) a park or other open space;

(c) a cultural center or community center;

(d) a facility for the promotion, creation, or retention of public or private jobs within the state through planning, design, development, construction, rehabilitation, business relocation, or any combination of these, within a county, city, or town;

(e) office, industrial, manufacturing, warehousing, distribution, parking, or other public or private facilities, or other improvements that benefit the state or a county, city, or town; or

(f) a facility for a charter school under Chapter 1a, Part 5, The Utah Charter Schools Act.

(7) (a) A school district that sells surplus property under this part may use proceeds from the sale only for bond debt reduction or school district capital facilities.

(b) Each school district that sells surplus property under this part shall place all proceeds from the sale that are not used for bond debt reduction in a capital facilities fund of the school district for use for school district capital facilities.

Amended by Chapter 104, 2012 General Session

#### **53A-2-404. Resale of surplus property.**

(1) If an eligible entity that has acquired surplus property under Section 53A-2-403 afterwards declares that property to be surplus, the school district from which the eligible entity acquired the property may purchase, and the eligible entity shall sell, the property as provided in Section 53A-2-403, except that the price at which the school district shall be entitled to reacquire the property shall be the price that the eligible entity paid for the property, plus the cost of any existing improvements that the eligible entity made to the property after it purchased the property.

(2) If the school district does not reacquire the surplus property under Subsection (1) and the eligible entity sells the surplus property to another buyer, the eligible entity and the school district shall equally share any proceeds of that sale that

exceed the amount the eligible entity paid for the property plus the cost of any existing improvements the eligible entity made to the property after it purchased the property.

Enacted by Chapter 339, 2006 General Session